

1. Whether claimant's injury arose out of and in the course of her employment with IBP, Inc.;
2. Whether the claimant provided notice to the employer;
3. Whether the claimant filed a timely written claim.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the evidence presented and for purposes of preliminary hearing, the Appeals Board finds:

(1) The Appeals Board finds claimant has established it is more probably true than not that she has sustained personal injury by accident arising out of and in the course of her employment with the respondent during the period of October 1990 through July 20, 1993. During this period, claimant was employed in respondent's scale house accounting offices and used a computer keyboard eight hours per day. Claimant presented the report of Dr. Charles Hamlin, M.D., who believes claimant has developed bilateral carpal tunnel which has been aggravated by her work.

(2) Claimant provided timely notice of her accident to the respondent. Although she did not report her wrist problems to the company nurse, during her last year of work claimant on several occasions complained of hand numbness to her supervisor.

(3) Claimant filed timely written claim. Claimant's last day worked was July 20, 1993, which is designated the date of accident. See the Kansas Court of Appeals case of Berry v. Boeing Military Airplanes, Case No. 71,007. By certified letter dated December 16, 1993, claimant served written claim for benefits upon respondent within two-hundred (200) days of her last day of work as required by K.S.A. 44-520a.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that for preliminary hearing purposes, the Order of Administrative Law Judge Thomas F. Richardson, dated November 28, 1994, denying medical treatment for claimant's bilateral wrist injuries is hereby reversed; that claimant has experienced injury or aggravation of her bilateral carpal tunnel syndrome, and has provided timely notice and written claim; and that this case should be, and hereby is, remanded to the Administrative Law Judge for additional proceedings in accordance with these findings. The Appeals Board does not retain jurisdiction over this proceeding.

IT IS SO ORDERED.

Dated this ____ day of April, 1995.

BOARD MEMBER PRO TEM

BOARD MEMBER

BOARD MEMBER

c: Chris Clements, Wichita, KS
Pamela Falk, Emporia, KS
Thomas F. Richardson, Administrative Law Judge
George Gomez, Director